

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

PAMELA WILLIAMS,
Plaintiff,

v.

GYRUS ACMI, LP, et al.,
Defendants.

Case No. 5:14-cv-00805 BLF (HRL)

**ORDER RE DISCOVERY DISPUTE
REPORT NO. 5**

Re: Dkt. 162

In Discovery Dispute Report 5, defendant Gyrus ACMI, LP (GALP) seeks an order requiring plaintiff Pamela Williams to respond to its fourth and fifth sets of interrogatories (i.e., Interrogatories 20-21) without objection. Defendant also points out that plaintiff failed to timely respond to its related third and fourth sets of requests for admission (RFAs). But, defendant does not seek an order compelling plaintiff to respond to those RFAs because GALP contends that the matters stated in those RFAs have been deemed admitted.

As has become the practice in this case, Discovery Dispute Report 5 was unilaterally filed by defendant, followed by a separate opposition from plaintiff, despite the undersigned's Standing Order re Civil Discovery Disputes requiring a joint discovery report. Defendant says that it was not for lack of trying. GALP says it scheduled the requisite in-person meet-and-confer for October 19, 10:30 a.m. at the Hilton San Francisco Union Square Hotel, 333 O'Farrell Street in San Francisco---a date, time, and place agreed to by plaintiff. Defense counsel says she flew to

1 San Francisco, stayed overnight, and waited at the appointed time and place for an hour, but
2 plaintiff never showed. Plaintiff does not dispute defendant's version of events.

3 As for the interrogatories in question: If a party fails to timely respond to discovery
4 requests, any objections she might have asserted are waived. See Richmark Corp. v. Timber
5 Falling Consultants, 959 F.2d 1468, 1473 (9th Cir. 1992) ("It is well established that a failure to
6 object to discovery requests within the time required constitutes a waiver of any objection."); see
7 also Fed. R. Civ. P. 33(b)(4) ("The grounds for objecting to an interrogatory must be stated with
8 specificity. Any ground not stated in a timely objection is waived unless the court, for good cause,
9 excuses the failure.").

10 In her opposition papers, filed on October 31, 2016, plaintiff states that she "has complied
11 with all of the discovery requests from Defendants." (Dkt. 176). That cursory assertion, however,
12 says nothing about whether plaintiff, in fact, timely responded to the interrogatories in question.
13 Nor does it aid this court's analysis in determining whether there is good cause to excuse the
14 failure to timely respond. Plaintiff otherwise argues that defendants failed to cooperate in the
15 preparation of a joint case management statement prior to a conference before Judge Freeman.
16 She also complains that defendants have not returned documents that she says are privileged. This
17 court declines to address these latter two arguments because they are irrelevant to the matters at
18 hand in the present discovery dispute report.

19 Even so, defendant having correctly taken the position that the matters in the related third
20 and fourth sets of RFAs are deemed admitted, see Fed. R. Civ. P. 36(a)(3), this court sees no need
21 to require plaintiff to answer the subject interrogatories, which seem to require an answer only if
22 the related RFAs are "not unqualifiedly admitted." (Dkt. 162-1, Ex. B at 10 and Ex. D at 33).
23 Accordingly, defendant's request for an order compelling responses to their fourth and fifth sets of
24 interrogatories is denied as moot.

25 SO ORDERED.

26 Dated: December 1, 2016

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HOWARD R. LLOYD
UNITED STATES MAGISTRATE JUDGE

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5:14-cv-00805-BLF Notice has been electronically mailed to:

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5:14-cv-00805-BLF Notice sent by U.S. Mail to:

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